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Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Customs and Patent Appeals and the United States Court of International Trade

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This issue contains

THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 81–63)

Feather-Filled Jackets, Coats, and Vests—Restriction on Entry

Restriction on entry of feather-filled jackets, coats, and vests manufactured or produced in Taiwan

There are published below directives of October 24, 1980, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning an import quota level and visa requirements on feather-filled jackets, coats, and vests in TSUSA Nos. 748.4042, 748.4044, 748.4054, and 748.4062 manufactured or produced in Taiwan. These directives amend, but do not cancel, that committee's directives of September 21, 1972, and December 21, 1979 (T.D.'s 72–280 and 80–66).

These directives were published in the Federal Register on November 3, 1980 (45 F.R. 72731), by the committee.

(QUO–2–1)

Dated: March 30, 1981.

WILLIAM D. SLYNE,
(For Richard R. Rosettie, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C. October 24, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive of December 21, 1979, from the chairman,

Committee for the Implementation of Textile Agreement, concerning imports into the United States of certain cotton, wool, and manmade fiber textile products, produced or manufactured in Taiwan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool, and manmade fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 7, 1980, and for the 12-month period beginning on January 1, 1980, and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of feather-filled jackets, coats, and vests in TSUSA Nos. 748.4042, 748.4044, 748.4054, and 748.4062, produced or manufactured in Taiwan, in excess of 200,914 dozen.[1]

The foregoing feather-filled textile products which have been exported to the United States prior to January 1, 1980, shall not be subject to this directive.

Further, such products which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action takens with respect to the authorities in Taiwan and with respect to feather-filled jackets, coats, and vests in TSUSA Nos. 748.4042, 748.4044, 748.4054, and 748.4062 from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

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[1] The level of restraint has not been adjusted to reflect any imports after Dec. 31, 1979. Imports in the designated TSUSA numbers have amounted to 122,607 dozens during the January–August period of 1980.

(T.D. 81–64)

Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of manmade fiber textile products manufactured or produced in Costa Rica

There is published below a directive of October 28, 1980, received by the Commissioner of Customs from the chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of manmade fiber textile products in category 649 manufactured or produced in Costa Rica.

This directive was published in the Federal Register on November 28, 1980 (45 F.R. 79136), by the committee.

(QUO–2–1)

Dated: March 30, 1981.

WILLIAM D. SLYNE,
(For Richard R. Rosettie, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C., October 28, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 22, 1980, between the Governments of the United States and Costa Rica, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11961 of January 6, 1977, you are directed to prohibit, effective on November 4, 1980, and for the 12-month period beginning on January 1, 1980, and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of manmade fiber textile products in category 649 in excess of 1,575,000 dozen.[1]

In carrying out this directive, entries of manmade fiber textile products in category 649 produced or manufactured in Costa Rica, that have been exported to the United States before January 1, 1980, shall not be subject to this directive.

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[1] The level of restraint has not been adjusted to reflect any entries after Dec. 31, 1979. Imports during the January 1980 through August 1980 period have amounted to 895,811 dozen.

Manmade fiber textile products in category 649 that have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of September 22, 1980, between the Governments of the United States and Costa Rica which provide, in part, that: (1) The specific limit may be increased for carryover and carryforward up to 11 percent of the applicable category limit or sublimit; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on February 28, 1980 (45 F.R. 13172), as amended on April 23, 1980 (45 F.R. 27463), and August 12, 1980 (45 F.R. 53506).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Costa Rica and with respect to imports of manmade fiber textile products from Costa Rica have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
Chairman, Committee for the Implementation of Textile Agreements.

(T.D. 81-65)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in Singapore

There is published below a directive of October 24, 1980, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning visa

requirements on entry of cotton, wool, and manmade fiber apparel products in certain categories manufactured or produced in Singapore.

This directive was published in the Federal Register on October 28, 1980 (45 F.R. 71409), by the committee.

(QUO-2-1)

Dated: March 30, 1981.

WILLIAM D. SLYNE
(For Richard R. Rosettie, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C., October 24, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of Januray 6, 1977, you are directed to prohibit, effective on November 5, 1980, and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and manmade fiber apparel products in categories 330–359, 431–459, and 630–659, produced or manufactured in the Republic of Singapore, regardless of the date of export, for which the Government of the Republic of Singapore has not issued an appropriate export visa, fully described below.

The export visa will be an original circular stamp in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when that form is used) and will be signed by an authorized official of the Government of the Republic of Singapore. A facsimile of the visa stamp is enclosed.

Merchandise for the personal use of the importer and not for resale does not require a visa, regardless of value.

You are further directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of

designated shipments of cotton, wool, and/or manmade fiber apparel products, produced or manufactured in the Republic of Singapore, notwithstanding the designated shipment or shipments do not fulfill the aforementioned visa requirements, whenever requested to do so in writing by the chairman of the Committee for the Implementation of Textile Agreements (CITA).

Beginning November 5 and ending December 31, 1980, all visa waivers will be authorized by the Committee for the Implementation of Textile Agreements (CITA). The waiver will be forwarded to the importer who will present it to the appropriate Customs port for inclusion as part of his entry documentation. Enclosed is a facsimile of the visa waiver that will be used, including the validating stamp of the Committee for the Implementation of Textile Agreements (CITA). Only the original stamp in blue ink, signed by an authorized official of the Committee for the Implementation of Textile Agreements, will be accepted.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on February 28, 1980 (45 F.R. 13172), as amended on April 23, 1980 (45 F.R. 27463), and August 12, 1980 (45 F.R. 53506).

In carrying out the above directions the Commissioner of Customs shall construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton, wool, and manmade fiber apparel products from Singapore has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

(T.D. 81-66)

Cotton and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton and manmade fiber textile products manufactured or produced in Taiwan

There is published below a directive of August 28, 1980, received by the Commissioner of Customs from the chairman, Committee for the

Implementation of Textile Agreements, concerning restriction on entry of cotton and manmade fiber textile products in certain categories manufactured or produced in Taiwan. This directive amends, but does not cancel, that committee's directive of December 21, 1979 (T.D. 80–66).

This directive was published in the Federal Register on September 3, 1980 (45 F.R. 58389), by the committee.

(QUO–2–1)

Dated: March 30, 1981.

WILLIAM D. SLYNE,
(For Richard R. Rosettie, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C., August 28, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On December 21, 1979, the chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and manmade fiber textile products in certain specific categories, produced or manufactured in Taiwan and exported to the United States during the agreement year which began on January 1, 1980, in excess of designated levels of restraint. The chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the arrangement regarding international trade in textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool, and manmade fiber textile products exported from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on

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[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool, and manmade fiber textile products from Taiwan which provide, in part, that: (1) Within the aggregate and group limits, specific ceilings may be exceeded by designated percentages; (2) these same levels may be increased for carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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September 3, 1980, the levels of restraint established in the directive of December 21, 1979, for categories 338/339, 638, and 639 to the following:

Category	*Amended 12-month level of restraint* [2]
338/339	539,567 dozen
638	1,499,589 dozen
639	5,003,879 dozen

The actions taken with respect to Taiwan, and with respect to imports of cotton and manmade fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
Chairman, Committee for the Implementation of Textile Agreements.

(T.D. 81-67)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in Singapore

There is published below a directive of December 16, 1980, received by the Commissioner of Customs from the chairman, Committee for the Implementation of Textile Agreements, concerning restrictions on entry of cotton, wool, and manmade fiber textile products in certain categories manufactured or produced in Singapore.

This directive was published in the Federal Register on December 19, 1980 (45 F.R. 83649), by the committee.

(QUO-2-1)

Dated: March 30, 1981.

WILLIAM D. SLYNE,
(For Richard R. Rosettie, Acting Director, Duty Assessment Division).

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[2] The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1979.

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C., December 16, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1981, and for the 12-month period extending through December 31, 1981, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and manmade fiber textile products in the following categories, produced or manufactured in Singapore, in excess of the indicated 12-month levels of restraint:

Category	*12-month level of restraint*	
317	8,000,000	square yards
331	221,429	dozen pairs
340	405,169	dozen
333/334/335	173,644	dozen of which not more than 9,985 dozen shall be in category 333; not more than 52,718 dozen shall be in category 334; and not more than 136,988 dozen shall be in category 335
341	48,276	dozen
347/348	451,738	dozen of which not more than 498,502 dozen shall be in category 347 and not more than 225,013 dozen shall be in category 348
445/446	20,000	dozen
604	700,000	pounds
638/639	2,972,217	dozen of which not more than 371,527 dozen shall be in category 638
641	77,276	dozen

In carrying out this directive, entries of cotton, wool, and manmade fiber textile products in the foregoing categories, produced or manufactured in the Republic of Singapore, which have been exported to the United States on and after January 1, 1980, and extending through December 31, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the 12-month period beginning on January 1, 1980, and extending through December 31, 1980. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to those provisions of the bilateral agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore, which provide, in part, that: (1) Within the aggregate and applicable group limits, specific limits, and sublimits, may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements for adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provision of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on February 28, 1980 (45 F.R. 17172), as amended on April 23, 1980 (45 F.R. 27463), and August 12, 1980 (45 F.R. 53506).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton, wool, and manmade fiber textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
Chairman, Committee for the
Implementation of Textile Agreements.

(T.D. 81-68)

Cotton and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton and manmade fiber textile products manufactured or produced in the People's Republic of China

There is published below a directive of November 28, 1980, received by the Commissioner of Customs from the chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton and manmade fiber textile products in certain categories manufactured or produced in the People's Republic of China.

This directive was published in the Federal Register on December 4, 1980 (45 F.R. 80324), by the committee.

(QUO-2-1)

Dated: March 30, 1981.

WILLIAM D. SLYNE,
(For Richard R. Rosettie, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C., November 28, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 17, 1980, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1981, and for the 12-month period extending through December 31, 1981, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton and manmade fiber textile products in categories 331, 339, 340, 341, 347/348, and 645/646 in excess of the following levels of restraint:

Category	*12-month level of restraint*
331	3,310,008 dozen pairs
339	912,000 dozen
340	561,600 dozen

Category	*12-month level of restraint*
341	445,100 dozen
347/348	1,824,000 dozen
645/646	566,500 dozen

In carrying out this directive entries of textile products in the foregoing categories which have been exported to the United States prior to January 1, 1981, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the 12-month period beginning on January 1, 1980, and extending through December 31, 1980. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of September 17, 1980, between the Governments of the United States and the People's Republic of China, which provide, in part, that: (1) Specific limits may be exceeded by designated percentages in any agreement year; (2) specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on February 28, 1980 (45 F.R. 13172), as amended on April 23, 1980 (45 F.R. 27463), and August 12, 1980 (45 F.R. 53506).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the People's Republic of China and with respect to imports of cotton and manmade fiber textile products from China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
Chairman, Committee for the
Implementation of Textile Agreements.

(T.D. 81–69)

High-Security Storage of Certain Imported Firearms

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public that pursuant to an agreement between Customs and the Bureau of Alcohol, Tobacco and Firearms (ATF), conditional import permits for certain firearms will be granted by ATF only after Customs has certified the security of the facility in which those firearms will be stored before their controlled transfer in accordance with strict Customs and ATF requirements.

This policy has been implemented to protect the public from possible harm resulting from the theft of certain firearms from Customs bonded warehouses and foreign-trade zones.

The manual supplement describing this policy and Customs internal implementing procedures is available from district directors of Customs.

FOR FURTHER INFORMATION CONTACT: John R. Holl, Cargo Processing Division, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C.; 202–566–5354.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The minimum physical security requirements of Customs bonded warehouses and foreign-trade zones are provided in the regulations of the Customs Service (19 CFR part 19) and the Foreign-Trade Zones Board, Department of Commerce (15 CFR part 400). These requirements were strengthened by internal administrative actions required to assure that these facilities also meet Customs standards for the security of international cargo recommended in T.D. 72–56, published in the Federal Register on February 16, 1972 (37 F.R. 3455).

The National Firearms Act (NFA), as amended by title II of the Gun Control Act of 1968 (26 U.S.C. 5801 et seq.), specifically in 26 U.S.C. 5844 and 5845, provides that NFA (title II) firearms (e.g., machineguns, destructive devices, and certain other firearms) may be imported or brought into the United States only for the use of Federal, State, and local governments; for scientific and research purposes; for testing or use as a model by a registered manufacturer; or as a registered importer's or registered dealer's sample. Their importation is authorized by the Bureau of Alcohol, Tobacco and

Firearms (ATF) only through conditional import permits that specify their intended use. The kinds of firearms and weapons whose importation is so restricted are described as a "firearm" in 26 U.S.C. 5845(a) and the ATF regulations set forth in 27 CFR 179.11.

The theft of title II firearms and their use for criminal or terrorist purposes present a clear threat to public safety and order. Existing Customs bonds and the physical security provisions of 19 CFR part 19 and 15 CFR part 400 are not adequate to indemnify or protect the public against this type of harm. Rather than rely on money damages paid to the Government or security standards designed to guard ordinary imported merchandise, Customs and ATF have determined that special security measures are necessary to prevent the theft of the title II firearms.

HIGH SECURITY FIREARMS POLICY

A joint Customs/ATF pilot program was initiated on an informal basis in 1975 to grant conditional import permits for title II firearms only after Customs had certified the security of the storage facility. That pilot program was implemented successfully and is continuing to date. Customs, with ATF concurrence, has determined to formalize the pilot program, and by Manual Supplement 3200–03, dated February 6, 1980, issued an internal directive to Customs field personnel to implement that policy formally. As a result of the agreement between Customs and ATF, conditional import permits for entry for warehouse, or admission to foreign-trade zones, and subsequent storage of these weapons, will not be granted by ATF unless Customs has certified that the storage facility meets security standards appropriate for the protection from theft of this category of weapons.

Manual Supplement 3200–03, which describes this policy and Customs internal implementing procedures, is available to the public upon request from any district director of Customs. The cities in which Customs district offices are located appear in 19 CFR part 101.

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Regulations and Information Division, Office of Regulations and Rulings. However, personnel from other Customs offices participated in its development.

Dated: March 17, 1981.

WILLIAM T. ARCHEY,
Acting Commissioner of Customs.

[Published in the Federal Register, April 3, 1981 (46 F.R. 20358)]

(T.D. 81-70)

Customhouse Broker's License—Stay of Revocation

Stay of revocation of customhouse broker's license 3605

Pursuant to order of the court in *James A. Barnhart* v. *United States Treasury Department*, U.S. Court of International Trade, No. 81-3-00328, and section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641(b)), and part 111 of the Customs Regulations, as amended (19 CFR 111.75, 111.77), notice is hereby given that the revocation of customhouse broker's license No. 3605 of James A. Barnhart, Los Angeles, Calif., is stayed.

WILLIAM T. ARCHEY,
Acting Commissioner of Customs.

[Published in the Federal Register April 6, 1981 (46 F.R. 20658)]

(T.D. 81-71)

Special Tonnage Tax and Light Money—Customs Regulations Amended

Foreign discriminating duties of tonnage and impost with respect to vessels of and certain imports from the United Arab Emirates, suspended and discontinued, section 4.22, Customs Regulations, amended

TITLE 19—CUSTOMS DUTIES

CHAPTER I—U.S. CUSTOMS SERVICE

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations by adding the names of the States that comprise the United Arab Emirates (U.A.E.) (Abu Dhabi, Ajman, Dubai, Fujairah, Ras Al Khaimah, Sharjah, and Umm Al Qaiwain) to the list of nations whose vessels are exempted from the payment of higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. Satisfactory evidence has been furnished by the Department of State that no discriminating duties of tonnage or impost are imposed in ports of U.A.E. upon vessels belonging to citizens of the United States or on their cargoes. The names of the member States of the

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U.A.E. are being added to aid Customs officers in identifying vessels of the U.A.E. which operate with documents issued by and bearing the name of the member States of the U.A.E. rather than the U.A.E. itself.

EFFECTIVE DATE: The exemption became effective October 25, 1975.

FOR FURTHER INFORMATION CONTACT: Michael K. Tomenga, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington D.C. 20229; 202–566–5706.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as light money, on all foreign vessels which enter U.S. ports (46 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof satisfactory to the President that no discriminatory duties of tonnage or imposts are imposed by that foreign nation on U.S. vessels or their cargoes (46 U.S.C. 141). The President has delegated the authority to grant this exemption to the Secretary of the Treasury. Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

On October 26, 1977, the Department of State advised the Department of the Treasury that satisfactory evidence had been obtained from the Government of the U.A.E. that no discriminating duties of tonnage or impost are imposed or levied in ports of that country upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported into that country on U.S. vessels.

In its communication, the Department of State advised that no discriminating duties of tonnage or impost were imposed or levied upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported into ports of the U.A.E. from October 25, 1975.

DECLARATION

Therefore, by virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141), and delegated to the Secretary of the Treasury by Executive Order No.

10289, September 17, 1951, as amended by Executive Order No. 10882, July 18, 1960 (3 CFR, 1959–63 comp., ch. II), and pursuant to the authorization provided by Treasury Department Order No. 101–5 (44 F.R. 31057), the Assistant Secretary of the Treasury declared that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, in respect to vessels of the U.A.E., and the produce, manufactures, or merchandise imported into the United States in such vessels from the U.A.E. or from any other foreign country.

This suspension and discontinuance took effect from October 25, 1975, and shall continue only for so long as the reciprocal exemptions of vessels wholly belonging to citizens of the United States and their cargoes shall be continued.

In accordance with this declaration, by T.D. 78–139, published in the Federal Register on May 24, 1978 (43 F.R. 22173), section 4.22, Customs Regulations (19 CFR 4.22), was amended to add the U.A.E. to the list of nations whose vessels are exempted from the payment of special tonnage taxes and light money.

The Regional Commissioner of Customs, Houston, Tex. (region VI), has recommended that section 4.22 be further amended to list the member States that comprise the U.A.E. Customs Headquarters agrees with the Regional Commissioner that the amendment would aid Customs officers in identifying vessels of the U.A.E. which operate with documents issued by and bearing the name of the member States of the U.A.E. rather than the U.A.E. itself. Confusion as to the identification of a vessel could result in the erroneous assessment of special tonnage taxes and light money on vessels which are entitled to an exemption from payment.

Although Customs has the authority to refund improperly imposed charges including special tonnage taxes and light money (46 U.S.C. 8), the assessment of the special tonnage taxes due to a failure to recognize a vessel document as one of the U.A.E. is a violation of the reciprocal assurances exchanged by the United States and the U.A.E. In similar situations involving other nations, this has resulted in complaints to the Department of State.

AMENDMENT TO THE REGULATIONS

The list in section 4.22, Customs Regulations (19 CFR 4.22), of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money is amended by adding the names of the States that comprise the U.A.E. to read as follows:

United Arab Emirates (Abu Dhabi, Ajman, Dubai, Fujairah, Ras Al Khaimah, Sharjah, and Umm Al Qaiwain).

(R.S. 251, as amended, 4219, as amended, 4255, as amended, 4228, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 5, 121, 128, 141))

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because this amendment merely implements a statutory requirement and involves a matter in which the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d).

INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Public Law 96–354, the Regulatory Flexibility Act. That act does not apply to any regulation such as this for which a notice of proposal rulèmaking is not required by the Administrative Procedure Act (5 U.S.C. 551 et seq.) or any other statute.

REGULATIONS DETERMINED TO BE NONSIGNIFICANT

In a directive published in the Federal Register on November 8, 1978 (43 F.R. 52120), implementing Executive Order 12044, Improving Government Regulations, the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the Federal Register and codified in the Code of Federal Regulations to be significant. However, regulations of this nature, which are nonsubstantive, are essentially procedural, do not materially change existing or establish new policy, and do not impose substantial additional requirements or cost on, or substantially alter the legal rights or obligations of, those affected, may with secretarial approval, be determined not to be significant. Accordingly, it has been determined that this amendment does not meet the Treasury Department criteria in the directive for significant regulations.

DRAFTING INFORMATION

The principal author of this document was Barbara E. Whiting, Regulations and Information Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and the Treasury participated in its development.

Dated: February 26, 1981.

JOHN P. SIMPSON,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, April 6, 1981 (46 F.R. 20536)]

(T.D. 81-72)

Sections 101.3 and 101.4, Customs Regulations, Amended To Extend the Port Limits of Sandusky, Ohio

TITLE 19—CUSTOMS DUTIES

CHAPTER 1—U.S. CUSTOMS SERVICE

PART 101—GENERAL PROVISIONS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to change the field organization of the Customs Service by extending the existing port limits of Sandusky, Ohio, to incorporate all of Huron Township and the city of Huron, Ohio, and to revoke the status of Huron, Ohio, as a Customs station. The change, which will enable Customs to keep pace with a significant expansion of Customs-related activities in Huron Township and the city of Huron, is part of a continuing program to obtain more efficient use of Customs personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: May 6, 1981.

FOR FURTHER INFORMATION CONTACT: Renee DeAtley, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202-566-8157.

SUPPLEMENTARY INFORMATION:

BACKGROUND

During the past few years, significant Customs activity at the Sandusky, Ohio, port of entry gradually has shifted eastward to Huron Township and the city of Huron, Ohio, both of which are outside the existing port limits. The result has been recurrent requests for Customs services and assignment of Customs officers to Huron Township and the city of Huron on a temporary basis, as needed. This caused delays and increased expenses.

To provide the most economical and efficient service to the public and to meet the expanded needs of the importing community in Huron Township and the city of Huron, a notice was published in the Federal Register on September 29, 1980 (45 F.R. 64211), proposing to extend the existing port limits of the Sandusky port of entry (region IX) to include all of Huron Township and the city of Huron and to revoke the status of Huron, Ohio, as a Customs station.

The notice advised that the extension of the port limits would enable Customs to station officers where needed within the port limits, on a permanent basis, thus reducing costs to the importing public. The extension of the port limits also would enable Customs to keep pace with the expansion of Customs-related activities in Huron Township and the city of Huron, and provide better coordination of Customs services and more efficient use of available resources. The notice further advised that the extension would not require any additional manpower.

Interested parties were given until November 28, 1980, to submit written comments regarding the proposal. No comments were received. The final rule adopts the amendment as proposed.

CHANGES IN THE CUSTOMS FIELD ORGANIZATION

Under the authority vested in the President by section 1 of the act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949–53 comp., ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (44 F.R. 31057), the geographical boundaries of the Sandusky, Ohio, port of entry shall include: All the territory within the geographical limits of the city of Sandusky, Huron Township, and the city of Huron, all in the State of Ohio.

AMENDMENT TO THE REGULATIONS

To reflect this action:

(1) The list of Customs regions, districts, and ports of entry in section 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by adding "(T.D. 81–72)" following "Sandusky, Ohio," in the column headed "Ports of entry" in the Cleveland, Ohio, Customs district (region IX).

(2) The list of Customs stations in section 101.4(c), Customs Regulations (19 CFR 101.4(c)), is amended by removing "Huron, Ohio," from the column headed "Customs stations" and "Sandusky" from the column headed "Port of entry having supervision" in the Cleveland, Ohio, Customs district (region IX).

INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code (as added by sec. 3 of Public Law 96–354, the Regulatory Flexibility Act) because it was the subject of a notice of proposed rulemaking published in the Federal Register before January 1, 1981, the effective date of the act.

REGULATION DETERMINED TO BE NONSIGNIFICANT

In a directive published in the Federal Register on November 8, 1978 (43 F.R. 52120), implementing Executive Order 12044, Improving Government Regulations, the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the Federal Register and codified in the Code of Federal Regulations to be significant.

However, regulations which are nonsubstantive, essentially procedural, do not materially change existing or establish new policy, and do not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected, may, with secretarial approval, be determined not to be significant. Accordingly, it has been determined that this amendment does not meet the Treasury Department criteria in the directive for significant regulations.

DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations and Information Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: February 16, 1981.

JOHN P. SIMPSON,
Acting Assistant Secretary of Treasury.

[Published in the Federal Register, April 6, 1981 (46 F.R. 20538)]

(T.D. 81-73)

Preclearance Offices in Foreign Countries—Customs Regulations Amended

TITLE 19—CUSTOMS DUTIES

CHAPTER 1—U.S. CUSTOMS SERVICE

PART 101—GENERAL PROVISIONS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Customs Service, the Immigration and Naturalization Service, and the Animal and Plant Health Inspection Service have established preclearance facilities in Canada, the Bahamas, and Bermuda, to provide Customs and other necessary clearances for

U.S.-bound airline passengers. This document amends the list of preclearance offices set forth in the Customs Regulations to include Edmonton, Alberta, Canada, under the supervision of the District Director of Customs, Great Falls, Mont., and to reflect the transfer of supervision over the preclearance offices of Toronto, Ontario, Canada, and Montreal, Quebec, Canada, from the District Director of Customs, Buffalo, N.Y., and St. Albans, Vt., respectively, to the Regional Commissioner of Customs, Boston, Mass.

EFFECTIVE DATE: The preclearance facility in Edmonton, Alberta, Canada, was established on October 28, 1979. Supervision over Customs activities of the Toronto, Ontario, Canada, and Montreal, Quebec, Canada, offices was transferred to the Regional Commissioner of Customs, Boston, Mass., on October 1, 1978.

FOR FURTHER INFORMATION CONTACT: Harry W. Carnes, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202–566–5607.

BACKGROUND

To assist airlines and the traveling public, officers of the Customs Service (Customs), the Immigration and Naturalization Service (INS), and the Animal and Plant Health Inspection Service (APHIS) are stationed at selected airports in foreign countries to provide Customs and other necessary clearances to airline passengers on direct flights to the United States. The purpose of this procedure is to provide quicker and more efficient service to international travelers by clearing passengers before departure from the foreign country instead of at the point of first entry into the United States. Preclearance of passengers and their baggage enables inspecting officers to carry out their responsibilities while helping to prevent delays, minimize inconvenience to travelers, and reduce baggage handling.

As part of a continuing effort to improve service to the international traveling public, Customs, INS, and APHIS, expanded the preclearance program by establishing preclearance facilities in Edmonton, Alberta, Canada, on October 28, 1979.

In addition, after a review of its operations, on October 1, 1978, Customs transferred supervision over its Toronto, Ontario, Canada, and Montreal, Quebec, Canada, preclearance offices from the District Directors of Customs, Buffalo, N.Y., and St. Albans, Vt., respectively, to the Regional Commissioner of Customs, Boston, Mass. This change will enable the Regional Commissioner to carry out more effectively his responsibility for the administration and operational management of the preclearance offices within his regional jurisdiction.

CHANGE IN EXISTING REGULATIONS

Section 101.5, Customs Regulations (19 CFR 101.5), lists nine preclearance facilities in foreign countries where Customs officers are stationed and the Customs officer having supervision over the Customs functions at each preclearance office. It is necessary to amend section 101.5 to reflect the opening of the Edmonton office, and the change in supervision over the Toronto and Montreal offices.

NOTICE AND PUBLIC PROCEDURE UNNECESSARY

Because this amendment involves matters relating only to agency organization and administration and does not impose any additional affirmative duty on the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary, and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

DRAFTING INFORMATION

The principal author of this document was Betty A. Stemley, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, other Customs personnel participated in its development.

AMENDMENT TO THE REGULATIONS

Section 101.5, Customs Regulations (19 CFR 101.5), is revised to read as follows:

101.5 Customs preclearance offices in foreign countries

Listed below are the preclearance offices in foreign countries where U.S. Customs officers are stationed and the Customs officers under whose supervision they function:

Country	Customs office	Customs officer having supervision
The Bahamas	Freeport	District Director, Miami, Fla.
	Nassau	District Director, Miami, Fla.
Bermuda	Kindley Field	Area Director, Kennedy Airport Area, Jamaica, N.Y.
Canada	Calgary, Alberta	District Director, Great Falls, Mont.
	Edmonton, Alberta	District Director, Great Falls, Mont.
	Montreal, Quebec	Regional Commissioner, Boston, Mass.

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Country	Cuotoms office	Customs officer having supervision
Canada	Prince Rupert, British Columbia	District Director, Anchorage, Alaska.
	Toronto, Ontario	Regional Commissioner, Boston, Mass.
	Vancouver, British Columbia	District Director, Seattle, Wash.
	Winnipeg, Manitoba	Regional Commissioner, Chicago, Ill.

(R.S. 251, as amended, section 624, 46 Stat. 759, 80 Stat. 379 (5 U.S.C. 301, 19 U.S.C. 66, 1624)).

WILLIAM T. ARCHEY,
Commissioner of Customs.

Approved: February 12, 1981.

JOHN P. SIMPSON,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, April 6, 1981 (46 F.R. 20538)]

(T.D. 81-74)

Drawback Contract (Rate)

There follows an approved drawback contract (rate). Any person who can comply with the conditions of the contract may adhere to it by notifying a Regional Commissioner of Customs in writing of its intention to do so and providing him with the following information:

1. Name and address of claimant;
2. Factories which will operate under the contract;
3. If a corporation, the names of officers or persons with power of attorney who will sign drawback documents on behalf of adherent.

This contract is promulgated to clarify the price extra provision of the general drawback contract for steel, published as T.D. 80-227 (B), which this contract supersedes upon publication. Any person currently operating under T.D. 80-227(B) will automatically be covered by this superseding contract (which includes all privileges of T.D. 80-227(B)).

Dated: March 31, 1981.

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

Drawback Contract Under 19 U.S.C. 1313(b) Articles Manufactured Using Steel

IMPORTED MERCHANDISE OR DRAWBACK PRODUCTS TO BE DESIGNATED AS THE BASIS FOR DRAWBACK ON THE EXPORTED PRODUCTS	DUTY-PAID, DUTY-FREE OR DOMESTIC MERCHANDISE OF THE SAME KIND AND QUALITY AS THAT DESIGNATED WHICH WILL BE USED IN THE MANUFACTURE OF THE EXPORTED PRODUCTS
Steel of one general class, e.g., an ingot, falling within one SAE, AISI, or ASTM [1] specification, and if the specification contains one or more grades falling within one grade of the specification.	Steel of the same general class, specification, and grade as the steel in the column immediately to the left hereof.

1. The duty-free or domestic steel used instead of the duty-paid steel will be interchangeable for manufacturing purposes with the duty-paid steel. To be interchangeable a steel must be able to be used in place of the substituted steel without any additional processing step in the manufacture of the article on which drawback is to be claimed.

2. Because the duty-paid steel that is to be designated as the basis for drawback is dutiable according to its value, the amount of duty can vary with its size (gage, width, or length) or composition (e.g., chrome content). If such variances occur, we shall designate by "price extra", in no case claiming drawback in a greater amount than that which would have accrued to that steel used in manufacture of or appearing in the exported articles. It is understood price extra shall not be available for coated or plated steel, covered in paragraph 5, infra, insofar as the coating or plating is concerned.

3. The drawback claimant agrees that the duty-paid steel will be so similar in quality to the steel used to manufacture the articles on which drawback will be claimed that the steel so used, if imported, would be classifiable in the same tariff item number and at the same rate of duty as the duty-paid imported steel.

4. It is agreed that any fluctuation in market value caused by a factor other than quality does not affect drawback.

5. If the steel is coated or plated with a base metal, in addition to meeting the requirements for uncoated or unplated steel set forth in

[1] Standards set by the Society of Automotive Engineers (SAE), the American Iron and Steel Institute (AISI), or the American Society for Testing and Materials (ASTM).

the parallel columns the drawback applicant agrees that the base-metal coating or plating on the duty-free or domestic steel used in place of the duty-paid steel will have the same composition and thickness as the coating or plating on the duty-paid steel. If the coated or plated duty-paid steel is within a SAE, AISI, ASTM specification, any duty-free or domestic coated or plated steel covered by the same specification and grade (if two or more grades are in the specification) is considered to meet this criterion for same kind and quality.

EXPORTED ARTICLES ON WHICH DRAWBACK WILL BE CLAIMED

The exported articles will have been manufactured in the United States using steels described in the parallel columns above.

GENERAL STATEMENT

We manufacture for our own account. We may produce articles for the account of another or another manufacturer may produce for our account under contract within the principal and agency relationship outlined in T.D. 55027(2) and T.D. 55207(1).

PRODUCTION

The steels described in the parallel columns will be used to manufacture new and different articles, having distinctive names, characters and uses.

MULTIPLE ARTICLES

Not applicable.

WASTE

The drawback claimant understands that no drawback is payable on any waste which results from the manufacturing operation. Unless the claim for drawback is based on the quantity of steel appearing in the exported articles, the drawback claimant agrees to keep records to establish the value (or the lack of value), the quantity, and the disposition of any waste that results from manufacturing the exported articles. If no waste results, the drawback claimant agrees to keep records to establish that fact.

LOSS OR GAIN

The drawback applicant agrees to keep records showing the extent of any loss or gain in net weight or measurement of the steel caused by atmospheric conditions, chemical reactions, or other factors.

PROCEDURES AND RECORDS MAINTAINED

We will maintain records to establish:

1. The identity and specifications of the merchandise we designate;

2. The quantity of merchandise of the same kind and quality as the designated merchandise [2] used to produce the exported article;

3. That, within 3 years after receiving it at our factory, we used the designated merchandise to produce articles. During the same 3-year period, we produce [3] the exported articles.

We realize that to obtain drawback the claimant must establish that the completed articles were exported within 5 years after the importation of the imported merchandise.

Our records establishing our compliance with these requirements will be available for audit by Customs during business hours. We understand that drawback is not payable without proof of compliance with title 19, United States Code, section 1313(b), and part 22 of the Customs Regulations.

BASIS OF CLAIM

The drawback claimant agrees to claim drawback on the quantity of steel used in producing the exported articles only if there is no waste or valueless or unrecovered waste in the manufacturing operation.

If there is no waste or if the drawback claimant does not want to keep records of any waste involved, the drawback claimant may claim drawback on the quantity of eligible steel that appears in the exported articles.

If there is valuable waste recovered from the manufacturing operation and records are kept which show the quantity and value of the waste from each lot of steel, the drawback claimant may claim drawback on the quantity of eligible material used to produce the exported articles less the amount of that steel which the value of the waste would replace.

AGREEMENTS

The corporation specifically agrees that it will:

1. Comply fully with the terms of this statement when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of liquidation of any drawback claim predicated in whole or in part upon this statement;

4. Keep this statement current by reporting promptly, to the Regional Commissioner who liquidates its claims, any changes in the number or locations of its offices or factories, the corporate name, or the corporate organization by succession or reincorporation;

[2] If claims are to be made on an appearing in basis, the remainder of this sentence should read "appearing in the exported articles we produced."

[3] The date of production is the date an article is completed.

5. Keep a copy of this statement on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this statement; and

6. Issue instructions to insure proper compliance with title 19, United States Code, section 1313(b), part 22 of the Customs Regulations and this statement.

(T.D. 81–75)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in T.D. 81–13 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, converison shall be at the following rates.

Austria schilling:	
March 16, 1981	$0. 067340
March 17–20, 1981	Quarterly
Belgium franc:	
March 16, 1981	$0. 029172
March 17, 1981	. 029214
March 18, 1981	. 029638
March 19, 1981	. 029780
March 20, 1981	. 029481
Denmark krone:	
March 16, 1981	$0. 152033
March 17, 1981	. 152323
March 18, 1981	. 154560
March 19, 1981	. 155135
March 20, 1981	. 153953
France franc:	
March 16, 1981	$0. 202511
March 17, 1981	. 202922
March 18, 1981	. 206016
March 19, 1981	. 206932
March 20, 1981	. 205339
Germany deutsche mark:	
March 16, 1981	$0. 478057
March 17, 1981	. 478927
March 18–20, 1981	Quarterly

Ireland pound:	
March 16, 1981	$1.7435
March 17, 1981	1.7450
March 18, 1981	1.7750
March 19, 1981	Quarterly
March 20, 1981	1.7645
Italy lira:	
March 16, 1981	$0.000980
March 17, 1981	.000982
March 18, 1981	.000994
March 19, 1981	.001000
March 20, 1981	.000990
Netherlands guilder:	
March 16, 1981	$0.431779
March 17, 1981	.433088
March 18, 1981	.439560
March 19, 1981	.440529
March 20, 1981	.436205
Portugal escudo:	
March 16, 1981	$0.017683
March 17, 1981	.017715
March 18–20, 1981	Quarterly
Republic of South Africa rand:	
March 16, 1981	$1.2670
March 17, 1981	1.2700
March 18, 1981	1.2720
March 19, 1981	Quarterly
March 20, 1981	1.2685
Sri Lanka rupee:	
March 16–20, 1981	$0.055249
Switzerland franc:	
March 16, 1981	$0.525762
March 17, 1981	.526177
March 18, 1981	.536193
March 19, 1981	Quarterly
March 20, 1981	.530082
United Kingdom pound:	
March 16, 1981	$2.2365
March 17, 1981	2.2490
March 18–20, 1981	2.2785

(LIQ–03–01 O:C:E)

Dated: March 20, 1981.

GWENN KLEIN KIRSCHNER,
Acting Chief,
Customs Information Exchange.

(T.D. 81–76)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

Rates of exchange based on rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Brazil cruzeiro, People's Republic of China yuan, Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical), and Venezuela bolivar.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to part 159, subpart C, Customs Regulations (19 CFR 159, Subpart C).

Brazil cruzeiro:	
March 16, 1981	$0.013628
March 17–20, 1981	.013323
People's Republic of China yuan:	
March 16, 1981	$0.609682
March 17, 1981	.613158
March 18, 1981	.616259
March 19, 1981	.623092
March 20, 1981	.620001
Hong Kong dollar:	
March 16, 1981	$0.189430
March 17, 1981	.189789
March 18, 1981	.191113
March 19, 1981	.190621
March 20, 1981	.190840
Iran rial:	
March 16–20, 1981	Not available
Phillippines peso:	
March 16–19, 1981	$0.130548
March 20, 1981	.130039
Singapore dollar:	
March 16, 1981	$0.475964
March 17, 1981	.476190
March 18, 1981	.480538
March 19, 1981	.479616
March 20, 1981	.478927
Thailand baht (tical):	
March 16–20, 1981	$0.048780

Venezuela bolivar:

March 16–19, 1981	$0.232883
March 20, 1981	.232937

(LIQ–03–01 O:C:E)

Dated: March 20, 1981.

GWENN KLEIN KIRSCHNER,
Acting Chief,
Customs Information Exchange.

ERRATUM

In CUSTOMS BULLETIN, volume 15, No. 2, dated January 14, 1981, in T.D. No. 81–5, the following rate should be corrected.

Singapore dollar:

December 18, 1980	$0.472367

(LIQ–03–01 O:C:E)

Dated: March 24, 1981.

GWENN KLEIN KIRSCHNER,
Acting Chief,
Customs Information Exchange.

United States Court of International Trade

Decision of the United States Court of International Trade

(Slip Op. 81–25)

HAARMAN & REIMER CORPORATION, PLAINTIFF *v.* THE UNITED STATES; MALCOLM BALDRIGE, SECRETARY OF COMMERCE; PAUL O'DAY, ACTING UNDERSECRETARY OF COMMERCE FOR INTERNATIONAL TRADE, DEPARTMENT OF COMMERCE; WILLIAM T. ARCHERY, ACTING COMMISSIONER OF CUSTOMS, AND ALL DISTRICT DIRECTORS OF CUSTOMS, DEFENDANTS AND CHINA NATIONAL NATIVE PRODUCE & ANIMAL BY-PRODUCTS IMPORT AND EXPORT CORPORATION, INTERVENOR

Court No. 81–1–00027

Order Denying Plaintiff's Motion for Rehearing

[Plaintiff's motion for rehearing denied.]

(Dated March 16, 1981)

Eugene L. Stewart, Terence P. Stewart and *Paul W. Jameson* on the memorandum brief (*Eugine L. Stewart* at the oral argument) for the plantiff.

Thomas S. Martin, Acting Assistant Attorney General; *David M. Cohen*, Director, Commercial Litigation Branch, on the memorandum brief (*Velta A. Melnbrencis* with him on the brief and at the oral argument), for the defendants.

Shearman & Sterling (*Donald L. Cuneo* on the memorandum brief and *Charles B. Manuel, Jr.* with him at the oral argument), for China National Native Produce & Animal By-Products Import and Export Corporation, intervenor.

BOE, Judge: In filing its motion for rehearing requesting this court to reconsider its decision in its Memorandum Opinion and Order under date of February 2, 1981, denying plaintiff's application for a preliminary injunction, the plaintiff asserts that certain pertinent points and authorities then presented were not considered by this court.

Contrary to the misapprehension of counsel for plaintiff, the silence of this court with respect to some arguments which may have been raised by him or with respect to certain authorities cited in the hearing on plaintiff's application for a preliminary injunction, cannot be interpreted as a lack of consideration thereof by this court. Counsel has presented his arguments particularly with respect to the decisions in the *Timken Company* v. *Simon*, 539 F. 2d 221 (D.C. Cir. 1976) and *The Budd Company, Railway Division* v. *The United States*, 1 CIT —, Slip Op. 80–15 (Dec. 29, 1980), at length in the oral argument at the hearing on plaintiff's application for a preliminary injunction. A continuation of the same arguments has been vigorously pursued in plaintiff's present motion for rehearing.

In light of plaintiff's uncertainty as to this court's understanding of the full import of the *Timken* and *Budd* decisions, this court will unequivocally state that is does not deem these decisions to be applicable to nor supportive of plaintiff's position in the present proceeding in which he now seeks reconsideration.

It is elementary that one of the showings prerequisite to the granting of a preliminary injunction is the likelihood that the applicant may be successful in the trial of its cause of action on the merits. In its prior order denying plaintiff's application for a preliminary injunction, this court predicated its decision principally on the foregoing prerequisite, pointing out in its opinion that the action instituted by the plaintiff has not been brought in conformity with the provisions of the Trade Agreements Act of 1979, and specifically 19 U.S.C. 1516a, which solely and exclusively provides for the time and manner of judicial review of the subject matter of the within action—namely, the pre-

liminary negative determination of the administering authority as to critical circumstances in connection with its affirmative determination of less than fair value sales in an antidumping proceeding.

The *Timken* decision, upon which the plaintiff relies so strenuously, in no manner has been deemed applicable to the instant proceeding. In *Timken* the jurisdiction of the U.S. District Court was sought to obtain injunctive relief, not then available in the U.S. Customs Court, to enforce the immediate implementation of an affirmative less than fair value determination by the Treasury Department and the affirmative injury determination by the International Trade Commission, which the Secretary of the Treasury in his ministerial capacity was seeking to impede and delay by requiring immediate appraisement of the merchandise in question. As the appellate court stated in the *Timken* case, supra at 226:

> The gravamen of Timken's complaint is that the Secretary has acted beyond his statutory authority in revoking the withholding of appraisement notice and ordering appraisement of the subject entries prior to his publication of a dumping finding. If section 516 enabled Timken to get judicial review of that issue in the Customs Court, we would not hesitate to reverse the District Court assertion of jurisdiction in this case.

The plaintiff likewise in its memorandum in support of its motion for rehearing at page 4 has correctly stated the true posture in which the *Timken* decision should be viewed:

> The *Timken* case thus stands for the principle that district courts could assert jurisdiction over antidumping related matters for which no adequate remedy existed in the Customs Court.

The facts and circumstances in the instant proceedings and the cause of action upon which such proceedings are predicated are to no extent analogous to those presented in *Timken*. The determination of the Commerce Department with respect to the existence of critical circumstances was a substantive determination and not a ministerial act or decision as involved in *Timken*.

The *Timken* decision was decided in 1976. In reaching its decision at that time the appellate court concluded that the legislative history provided no persuasive evidence indicating that nonreviewability was intended by the Congress and that, accordingly, the U.S. District Courts could assert jurisdiction in antidumping matters for which no adequate remedy then existed in the Customs Court.

From an examination of the legislative history relating to the subsequent enactment of the Trade Agreements Act of 1979 and the Customs Court Act of 1980, however, it appears abundantly clear that Congress has prescribed therein the time, nature, and method of the judicial review of administrative agency action relating to

antidumping determinations. It is deemed unwarranted to reiterate the comments, quoted at length in this court's prior opinion under date of February 2, 1981, contained in the House Judiciary Committee Report relating to the enactment of 28 U.S.C. 1581(i), under which the plaintiff erroneously seeks to predicate its action, the relationship thereof to the Trade Agreements Act of 1979 and the exclusive review of agency determinations specifically provided for therein.[1] (19 U.S.C. 1516a).

Suffice it to further say, plaintiff's counsels' analysis and interpretation of the *Budd* decision, indeed, appear to bear little resemblance to the express holding of this court therein. In plaintiff's memorandum in support of its motion for rehearing, the holding of this court in the *Budd* decision is questionably summarized by counsel at page 2:

> In *Budd* this court held that the International Trade Commission's preliminary negative injury determination was *unlawful* because the ITC's lack of diligence in seeking information available to it was contrary to the Congressional mandate to conduct a thorough investigation. [Italic supplied.]

This court fails to discern any language contained in the *Budd* decision construing the preliminary negative injury determination of the International Trade Commission as unlawful. The decision in every action and the language expressed therein must be viewed in connection with the posture and nature of the particular proceedings before the court and concerning which the decision refers. In the *Budd* case the preliminary negative injury determination made by the International Trade Commission was formally presented to this court for judicial review pursuant to statutory authority by the filing of a summons, complaint and answers, followed by cross-motions for summary judgment, pursuant to the provisions of 19 U.S.C. 1516a as enacted by the Trade Agreements Act of 1979.

In its decision this court, although calling attention to the statutorily mandated investigative obligations of the Commission independent of any burden of proof falling upon the petitioner, neither attempted to define the extent of a thorough investigation which should be conducted in every preliminary investigative proceeding, nor prescribed a definitive measurement of that information which might be reasonably available in every proceeding. On the contrary, this court in the *Budd* decision requested the International Trade Commission, after consideration of certain documents and available evidentiary facts, to supplement and/or amplify its findings of fact, if warranted, for the purpose of informing this court in its judicial review deter-

[1] House Judiciary Committee Report, H.R. Rept. No. 96-1235 at 47-48.

mination more specifically as to the rational basis upon which the Commission's determination was founded. Indeed, the foregoing directive contained in the order of remand in the *Budd* decision is a far cry from the characterization thereof made by plaintiff's counsel that the preliminary negative determination of the Commission was unlawful.

In the *Budd* case the preliminary negative determination of the International Trade Commission was properly before this court pursuant to the provisions of 19 U.S.C. 1516a. The instant proceedings however, as hereinbefore stated, has not been brought in conformity with the Trade Agreements Act of 1979 which solely and exclusively provides for the time and manner of judicial review of determinations relating to antidumping. The plaintiff by predicating his action under the provisions of 28 U.S.C. 1581(i), which clearly does not create a cause of action, seeks to attain through indirection a judicial reivew which the statutes and the legislative history advise are within the exclusive purview of the provisions provided for in the Trade Agreements Act of 1979.

The absence of a specific provision for judicial review of a preliminary negative determination by the administering authority cannot be presumed, in view of the legislative history, to be an unintentional omission thereby justifying judicial review under the residual jurisdictional grant provided by 28 U.S.C. 1581(i). Rather, such an absence conforms to the pattern of congressional intent evidenced in the statutory provisions of the Trade Agreements Act of 1979 and by legislative history to postpone judicial review until the time the final determination is made by the administering authority in accordance with the provisions of 19 U.S.C. 1673d.

In view of the fact that this court is satisfied that the plaintiff will be unable to prevail in the trial of this action on the merits, the application of the plaintiff for a preliminary injunction necessarily fails.

The opinion of this court, contained in its prior memorandum and order denying plaintiff's application for a preliminary injunction, determining that the plaintiff has failed to sustain its burden of demonstrating that irreparable injury will result to it by the failure of this court to grant its application for a preliminary injunction is reaffirmed herein.

It is, accordingly, hereby

ORDERED that the motion of the plaintiff for rehearing of this court's opinion and order denying its application for a preliminary injunction made and entered under date of February 2, 1981, is in all things denied.

(Slip Op. 81–26)

ATLANTIC SUGAR, LTD., ET AL., PLAINTIFF *v.* THE UNITED STATES, DEFENDANT, AMSTAR CORPORATION, PARTY-IN-INTEREST

Court No. 80–5–00754

Memorandum and Order

(Dated March 17, 1981)

WATSON, Judge: This is an action under Section 516A(a)(2) of the Tariff Act of 1930, (19 U.S.C. 1516a(a)(2)) for review of a determination by the International Trade Commission (ITC) that the importation of sugar from Canada was causing material injury to a regional industry in the United States.

Defendant has moved to suspend these proceedings for not more than 75 days to allow the ITC to review its determination and to provide additional opportunity for public comment. The ground for the motion is the asserted discovery by the ITC of errors in the figures upon which it based its finding that a regional industry existed.[1] The errors are described broadly as "computational errors" made by the staff of the ITC and relate to figures on table 3, appearing on page A–18 of the Final Determination of Material Injury.

Defendant says that the suspension it requests will avoid the time and expense of a later formal remand and will least disrupt the judicial proceeding. Intervenor Amstar has expressed no objection. Plaintiffs, however, object on the ground that the procedure would not expedite the resolution of the action. Plaintiffs point out that they have raised issues regarding other aspects of the determination, which are unaffected by the errors and the resolution of which would only be postponed if the case was remanded at this stage. Plaintiffs also argue that the court should be the judge of the consequences of the errors and whether they warrant remand or another remedy.

The court is of the opinion that, although remand may ultimately be required, it is not called for at this time. In the first place, the court has not been sufficiently informed as to the exact nature of the errors so as to be certain that remand would be the proper procedure. The description of the errors in the moving papers has been given only in the most general terms.

The moving papers state that the General Counsel of the ITC is in the process of drafting a memorandum for the ITC outlining the nature of the errors discovered and containing the corrected figures

[1] In the circumstances set out in 19 U.S.C. 1677(4)(c) material injury may be found with respect to less than an entire domestic industry. The statute sets out the criteria of economic insularity by which producers in a portion of the United States may be treated as a separate industry.

and computations. Without a precise understanding of the errors and the ability to make a reasonable estimation of the consequences, the court is not in a position to be certain that a remand is correct, or to give the remand a proper structure, or to say that further judicial proceedings would be without benefit. In this respect, the situation here differs from those in which an initial serious question as to the validity of the entire administrative proceeding becomes apparent or those in which the opacity of the administrative determination does not allow the court to proceed with its function. See, *Ford Motor Co.* v. *Labor Board*, 305 U.S. 364 (1938). See also, *SCM Corporation* v. *United States*, 84 Cust. Ct. 227, C.R.D. 80–2, 487 F. Supp. 96 (1980).

In addition to the sketchiness of the details regarding the errors committed the court is disinclined to remand at this time for other reasons. The motion for remand was filed just 1 day before the filing of plaintiffs' motion for review of the record under rule 56.1. The latter motion is a presentation of plaintiffs' complete argument against the determination and it goes well beyond the aspect which is evidently affected by the errors, i.e., the existence of a regional industry. For example, plaintiffs also challenge findings that the volume of imports was significant;[2] that they depressed or prevented the increase of domestic prices;[3] or caused the loss of sales,[4] or placed an increased burden on government price-support programs.[5] Thus, unless the request results in the reversal of the original injury determination (the likelihood of which the court is unable to estimate) the need for a coutinued and complete judicial review will remain.

In this respect too, these circumstances differ from those in which completed dispositive motions have served to isolate and clarify the need for remand. See, *Voss International Corp.* v. *United States*, 78 Cust. Ct. 130, C.D. 4698, 432 F. Supp. 205 (1977). See also, *Sprague Electric Company* v. *United States*, 84 Cust. Ct. 243, C.R.D. 80–3, 488 F. Supp. 910 (1980).

It seems more conducive to the speedy disposition of this action that defendant and Intervenor reply to the motion for review and the multiplicity of issues it raises. The propriety of remand will be considered thereafter. It is better to defer consideration of remand to a time when it is unavoidable and can be accomplished with complete understanding of its necessity, in coordination with other aspects of the action, and with precise instructions.

The necessity for remand here may be removed by other dispositive factors or may be increased by developments in other areas of the

[2] 19 U.S.C. 1677(7)(C)(i).
[3] 19 U.S.C. 1677(7)(C)(ii)(II).
[4] 19 U.S.C. 1677(7)(C)(iii)(I).
[5] 19 U.S.C. 1677(7)(D)(ii).

action. In any event, the court will be in a better position to evaluate the need for a remand and devise the proper framework if it proceeds as far as possible toward the completion of the review.

The court is also mindful of the legislative intention in the Trade Agreements Act of 1979, that the overall review process in these matters be shortened [6] and the express provision in the Customs Courts Act of 1980, that these actions be given a priority over most other pending actions and be expedited in every way.[7]

In sum, defendant has not demonstrated to the court by argument or citation of authority that it would be proper to remand the matter at this time on representations of incipient error. The court does not defer consideration of remand out of empty procedural formality. Contrast, *United States* v. *Benmar Transport & Leasing Corp.*, 444 U.S. 4 (1979). At this point, the continuation of judicial review appears more likely to speed the resolution of the action and serve the interests of justice.

For the reasons expressed above defendant's motion for remand is denied and it is further

ORDERED, that defendant and intervenor shall respond to plaintiffs' motion for review within 30 days after entry of this order and shall include in their responses such additional details regarding the necessity for remand as are available to them.

(Slip Op. 81–27)

FRUEHAUF CORPORATION, PLAINTIFF *v.* UNITED STATES, DEFENDANT

Court No. 78–7–01295

Flooring for Trailers

HARDWOOD FLOORING FOR TRUCK TRAILERS—PARTS OF MOTOR VEHICLES.

Imported kits for constructing truck trailer floors were classified by Customs as "other" parts of motor vehicles under item 602.27 of the Tariff Schedules of the United States (TSUS), as modified by T.D. 68–9. Plaintiff claims that the merchandise is classifiable under item 202.58, TSUS, providing for other hardwood flooring in strips and planks, whether or not drilled or treated. The action is before the court on cross-motions for summary judgment.

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[6] H.R. Rept. No. 96–317, 96th Cong., 1st sess. 181 (1979). S. Rept. No. 96–249, 96th Cong., 1st sess. 251 (1979).

[7] 28 U.S.C. 2647.

The pertinent facts are undisputed. The kits comprised hardwood boards ordered to specified lengths and widths with tongue and grooving and rabbeted on one end. Each kit contained the requisite number of hardwood boards for constructing a trailer floor of particular dimensions, and rabbeting facilitated the positioning and assembly of the boards into a trailer floor. In addition to the imported boards, various structural and other components were required for the construction of a trailer floor.

HELD.

The specific dimensions in which the boards were ordered for constructing trailer floors of particular sizes and the rabbeting process are entirely consistent with, and in furtherance of, the use of the merchandise as flooring material. The further fact that the imports were packaged in kits for a particular trailer installation does not destroy the character of the merchandise as hardwood flooring in strips and planks. Accordingly, the importations are embraced by item 202.58, TSUS, and Customs' classification under item 692.27, TSUS, was erroneous.

[Plaintiff's motion for summary judgment granted; defendant's cross-motion for summary judgment denied.]

(Decided March 18, 1981)

Webster & Chamberlain, Esqs. (*Christopher L. Hartwell*, Esq., on the brief), for the plaintiff.

Thomas S. Martin, Acting Assistant Attorney General; *Joseph I. Liebman*, Attorney in Charge, International Trade Field Office, Commercial Litigation Branch (*Jerry P. Wiskin*, trial attorney, on the brief), for the defendant.

NEWMAN, Judge: The parties in this action have filed cross-motions for summary judgment.[1] For the reasons stated herein, plaintiff's motion is granted, and defendant's cross-motion is denied.

The issue presented concerns the proper tariff classification for certain kits which were used to construct truck trailer floors. This merchandise was imported by plaintiff from Thailand and Singapore and entered at the port of San Francisco in 1974. Upon liquidation of the entries, the imports were assessed with duty at the rate of 4 per centum ad valorem under the provision for "other" parts of motor vehicles in item 692.27, Tariff Schedules of the United States (TSUS), as modified by T.D. 68–9. Plaintiff claims that the merchandise is entitled to duty-free entry under item 202.58, TSUS,

[1] This action was previously before the court on defendant's motion to dismiss for lack of jurisdiction, which motion was denied by an order entered on Nov. 20, 1978.

which covers other hardwood flooring in strips and planks, whether or not drilled or treated.

To support its motion, plaintiff has submitted an affidavit (with attached exhibits) of John P. Schauerte, an engineer employed by plaintiff. In its cross-motion, defendant relies upon the presumption of correctness attaching to the classification, the entry papers, and upon plaintiff's responses to interrogatories and request for admissions served by defendant.

The pertinent and undisputed facts are: Plaintiff imported certain kits comprised of hardwood boards ordered in specific lengths and widths with tongue and grooving. These imported kits were utilized by plaintiff for constructing truck trailer floors, and each kit contained the requisite number of hardwood boards for constructing a trailer floor of particular dimensions. It further appears that the hardwood boards as imported were rabbeted at one end, meaning that an L-shaped cutout had been made across the width of the boards. The cutout facilitated the positioning and assembly of the boards into a trailer floor. In addition to the imported hardwood pieces, various structural and other components were required for constructing the trailer floor.

The following steps were involved in constructing trailer floors: (1) Cutting the imported boards to the length required if used in a trailer other than the model for which they were specified; (2) undercoating the boards; (3) positioning the crossmembers, front-frame and coupler in the tooling fixture; (4) positioning the boards in that section into the fixture; (5) drilling the floor screw holes; (6) installing screws; (7) positioning and attaching the side walls; (8) installing the front and rear walls.

Plaintiff maintains that the imported merchandise is specifically provided for eo nomine in item 202.58, TSUS, which precludes classification of the merchandise as a "par" pursuant to General Interpretative Rule 10(i)(j)[2]. Defendant advances the argument that the imported merchandise does not fall within the ambit of item 202.58 inasmuch as hardood flooring is a material and the imported kits were advanced beyond the material stage.

Irrespective of whether flooring is a material used on floors, as observed by the court in *B. Axelrod & Co.* v. *United States*, 70 Cust. Ct. 117, 125, C.D. 4417 (1973), or is more than mere materials, as noted in *D. B. Frampton & Company, et al.* v. *United States*, 60 Cust. Ct. 4, 16, C.D. 324 (1968), I conclude that the imported merchandise constitutes flooring within the purview of item 202.58, TSUS.

[2] Rule 10(i)(j) states: "A provision for 'part' of an article covers a product solely or chiefly used as a part of such article, but does not prevail over a specific provision for such part".

Even if flooring is a material, as insisted by defendant, nevertheless flooring need not be a material in the same sense that plywood, for example (which is used for interior and exterior construction of roofs, walls, floors, etc.), is a material. Hardwood flooring in strips and planks as provided for in item 202.58 need only be a material insofar as it is used for constructing floors. Significantly, that was precisely the use for which the imported merchandise was intended. Although the merchandise was imported as so-called kits, it must be observed that the merchandise did not comprise a prefabricated truck trailer floor, which obviously would be more than flooring in strips or planks. Here, the kits included merely hardwood flooring boards, and did not include the other necessary components to construct a trailer floor, as delineated in the affidavit submitted by plaintiff.

The imported kits, although comprising hardwood boards made to specified dimensions for a particular size trailer and rabbeted to facilitate installation, are not advanced beyond flooring. Congress recognized that merchandise classifiable as hardwood flooring in strips and planks was manufactured to accurate dimensions and drilled with holes to facilitate installation. Explanatory Notes, Tariff Classification Study (1960),[3] schedule 2, part 1, page 21; *D. H. Frampton, supra,* at 16. In view of such congressional intent, I fail to see the logic of defendant's argument that cutting to specified dimensions and rabbeting to facilitate installation should be regarded as an advancement of the merchandise beyond the status of flooring in strips and planks.

In the final analysis, the question to be resolved is whether, as a matter of law, these hardwood boards utilized for constructing truck trailer floors lose their status as flooring by cutting to specified dimensions, rabbeting, and packaging in kits containing the required number of boards for a trailer floor of a particular size. After careful consideration of the arguments presented by counsel, I must agree with plaintiff's contention that these facts do not preclude classification of the merchandise under item 202.58, TSUS. The specific dimensions in which the boards were ordered by plaintiff for constructing trailer floors, together with the rabbeting process, are entirely consistent with, and in furtherance of, the use of the merchandise as flooring. The further fact that the imports were packaged in kits for a particular trailer installation does not destroy the character of the merchandise as hardwood flooring in strips and planks. Accordingly, I have determined that the importations in this case are embraced by item 202.58, TSUS, and that classification by Customs under item 692.27, TSUS, was erroneous.

[3] While the description of flooring in the Tariff Classification Study does not mention rabbeting, there is nothing that suggests that such process precludes classification of merchandise as hardwood flooring.

Concluding, I find that there is no genuine dispute as to any material fact, and this plaintiff is entitled to summary judgment as a matter of law. Defendant's cross-motion for summary judgment is denied.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *March 23, 1981.*

The following abstracts of decisions of the United States Court of International Trade at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

WILLIAM T. ARCHEY,
Acting Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P81/36	Maletz, J. March 19, 1981	Matsushita, Electric Corporation of America	77-5-00758	Sec. 304, Tariff Act of 1930, as amended 10% marking penalty for failure to mark merchandise with country of origin	Merchandise exempt from country of origin marking requirements	19 CFR 134.35 U.S. v. Gibson-Thomsen Co., Inc. (C.A.D. 98)	San Francisco "Thin trimmer capacitors" and "electrolytic capacitors"; articles sold by plaintiff to manufacturers in U.S. who used them to manufacture different articles; outermost containers marked to indicate country of origin
P81/37	Ford, J. March 20, 1981	Renold, Inc.	77-9-02855	Item 649.43 15%	Item 649.49 5%	Agreed statement of facts	New York Moil point, chisel and spade
P81/38	Newman, J. March 20, 1981	A. N. Deringer, Inc., a/c Uniroyal, Inc.	78-1-00182	Item 657.25 9.5%	Item 772.65 4%	Uniroyal, Inc., c/o A. N. Deringer, Inc. (Abs. P80/59)	Champlain-Rouses Point (Ogdensburg) Rubber hose, pipe or tubing in various lengths with attached fittings

Decision of the United States Court of International Trade

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R81/97	Re, C.J. March 17, 1981	Holly Stores Inc.	78-4-00630	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.
R81/98	Re, C.J. March 17, 1981	S. S. Kresge Co.	78-3-00511	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Longview (Portland, Oreg.) Wearing apparel, etc.

R81/99	Re, C.J. March 17, 1981	S. S. Kresge Co.	78-9-01568	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.
R81/100	Re, C.J. March 17, 1981	P. A. Originals Ltd.	76-9-02113, etc.	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.
R81/101	Re, C.J. March 17, 1981	Sanyo Electric Inc.	76-7-01602	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Electrical articles
R81/102	Re, C.J. March 19, 1981	C. Itoh & Co. (America) Inc.	72-11-02224	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Various articles
R81/103	Re, C.J. March 19, 1981	S.S. Kresge Co.	78-1-00058	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R81/104	Re, C.J. March 19, 1981	Regal Accessories, Inc.	74-4-00940, etc.	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.
R81/105	Re, C.J. March 19, 1981	Regal Accessories, Inc.	76-2-00512	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.
R81/106	Re, C.J. March 19, 1981	Regal Accessories, Inc.	76-12-02658	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.
R81/107	Re, C.J. March 19, 1981	Rhodia Inc.	76-9-02043	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.

R81/108	Re, C.J. March 19, 1981	United Merchants & Mfrs., Inc.	76-9-02117, etc.	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.
R81/109	Maletz, J. March 19 1981	C. Itoh Electronics, Inc.	79-2-00337	Export value	$24.50 a unit	Agreed statement of facts	Los Angeles Certain printing mechanisms, model No. 310
R81/110	Newman, J. March 19, 1981	Gehrig, Hoban & Co., Inc	R69/8834, etc.	United States value	Determined by adding to f.o.b. unit invoice price in Swiss francs converted to a dollar value at rate of exchange in effect at time of entry (the "claimed value"), 53% of difference between claimed value and appraised value	Agreed statement of facts	New York Machine tools and accessories and parts thereof
R81/111	Re, C.J. March 20, 1981	Campus Sweater & Sportswear Company	74-4-01002	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Greenville-Spartanburg (Charleston) Various articles
R81/112	Re, C.J. March 20, 1981	Cohn Hall Marx Div., of United Merchants & Mfrs., Inc.	77-3-00399	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Honolulu Wearing apparel, etc.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R81/113	Re, C.J. March 20, 1981	W. T. Grant Co.	74-5-01196	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.
R81/114	Re, C.J. March 20, 1981	Holly Stores Inc.	74-2-00513, etc.	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.
R81/115	Re, C.J. March 20, 1981	Holly Stores Inc.	77-11-04681	Export value	Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Wearing apparel, etc.

Judgment of the United States Court of International Trade

March 16, 1981

APPEAL 80–9.—Westway Trading Corp. *v.* United States.—RAW SUGAR—EXEMPTION FROM INCREASED DUTY—DATE OF EXPORTATION—PRESIDENTIAL PROCLAMATION—SUMMARY JUDGMENT.—C.D. 4826 affirmed October 30, 1980 (C.A.D. 1254).

Appeal to United States Court of Customs and Patent Appeals

APPEAL 81–12.—Royal Business Machines, Inc. *v.* The United States, et al. (SCM Corporation, Intervenor)—PORTABLE ELECTRIC TYPEWRITER—WITHHOLDING OF APPRAISEMENT NOTICE—ANTIDUMPING DUTY ORDER—RETROACTIVE INCLUSION—SUMMARY JUDGMENT—TSUS—Appeal from Slip Op. 80–16.

In this case, the Department of Treasury caused a notice of Withholding of Appraisement to be published in the Federal Register on January 4, 1980, which was limited to portable electric typewriters, as provided for in item 676.0510 of the Tariff Schedules of the United States Annotated (45 F.R. 122022). Also, the Department of Commerce caused a final antidumping order to be published on May 9, 1980, directing U.S. Customs officers to assess dumping duties on all entries subject to the "Withholding of Appraisement" notice published in the Federal Register on January 4, 1979 (45 F.R. 1220–2), and all future entries until further notice, and limited the scope of the order by stating that "the term 'portable electric typewriters' are those provided for in item 676.0510 of the Tariff Schedules of the United States annotated" (45 F.R. 30618–19).

Plaintiff-appellant imported a trypewriter known as the Royal Administrator during the period of Jaunuary 4, 1980, through May 9, 1980, and contended before the International Trade Commission and Commerce that the typewriter is not properly classifiable under item 676.0510, TSUS, and, therefore, is not within the scope of the notice of Withholding of Appraisement and the final antidumping order, supra; that the headquarters, U.S. Customs Service issued a ruling on August 7, 1980, stating in part that the Royal Administrator is properly classifiable under item 676.0540, TSUS, and, therefore, is not within the scope of the antidumping order, supra; that the District Director at the Port of Los Angeles has refused to cancel bonds posted by plaintiff-appellant for the estimated antidumping duties on the entries of the typewriter, and has not liquidated the entries and advises that the current importations of the Royal Administrator would be subject to the requirement of the tender of cash deposits of estimated dumping duties; that Commerce has refused to acknowledge the nonincludability of the typewriter in its

antidumping duty order; that Commerce has manifested an intention to retroactively include the Royal Administrator in its antidumping order; that the retroactive inclusion of the typewriter in the antidumping order woud be contrary to law since it is classifiable under item 676.0510, TSUS; that Commerce's description of the merchandise, pursuant to section 736(a)(2) of the Tariff Act of 1930, does not include the Royal Administrator; that the provisions of section 516(a), (19 U.S.C. 1516a) preclude any interested party from contesting any matter contained in the final antidumping duty order after 30 days after the publishing of such order; that Commerce cannot retroactively amend the antidumping duty order to expand its scope, nor can it order the assessment of antidumping duties on merchandise which is beyond the scope of such order; that plaintiff-appellant will suffer irreparable harm and injury if the antidumping order, supra, is retroactively modified so as to include the Royal Administrator; that plaintiff-appellant filed a motion with the U.S. Court of International Trade requesting it to issue a temporary restraining order and preliminary injunction enjoining defendants-appellees from conducting further antidumping proceedings with respect to the Royal Administrator, and to issue a writ of mandamus ordering defendants-appellees to cancel all antidumping bonds on current entries of the typewriter between January 4 and May 1980, and to remove the typewriter from the list of machines subject to the Withholding of Appraisement notice published in the Federal Register on January 4, 1980, and May 9, 1980. Defendants-appellees, and the intervenor, SCM Corp., filed motions in opposition and cross-motions to dismiss for lack of jurisdiction and summary judgment.

It is claimed that the U.S. Court of International Trade erred in denying plaintiff-appellant's motion for preliminary injunction and writ of mandamus and further erred in granting defendants-appellees' and the intervenor's cross-motions for dismissal for lack of jurisdiction. Plaintiff-appellant seeks review, pursuant to the provisions of sections 1541(a), 2601(a), and 2601(b), of title 28, United States Code, and to that end requests the court to issue such orders, and grant such relief, as the statute provides and to the court shall seem just.

International Trade Commission Notices

Investigations by the U.S. International Trade Commission

DEPARTMENT OF THE TREASURY, *April 2, 1981.*

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

R. E. CHASEN,
Commissioner of Customs.

In the Matter of CERTAIN FOOD SLICERS AND COMPONENTS THEREOF	Investigation No. 337–TA–76

Notice of Termination of Crest Industries Corp. as Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Termination of Crest Industries Corp., as a party respondent in the above-captioned investigation.

SUMMARY: Having determined that this matter is properly before the Commission and having reviewed the record in this investigation, the Commission on ———— terminated Crest Industries Corp., as a party respondent in investigation No. 337–TA–76.

SUPPLEMENTARY INFORMATION: This investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) concerns alleged infringement of U.S. Letters Patent 3,766,817 by respondents E. Mishan & Sons, Albert E. Price, Inc., Crest Industries Corp., and Taiwan Timing Trading Co. The Commission instituted the investigation on December 4, 1979, and published notice thereof in the Federal Register of December 21, 1979 (44 F.R. 75733). On August 1, 1980, complainant Prodyne Enterprises, Inc., entered into a licensing agreement with respondent Crest Industries Corp. The Commission published notice that it was considering terminating Crest as a respondent in the above-captioned investigation in the Federal

Register of January 14, 1981 (46 F.R. 3391), along with the text of the licensing agreement, and requested comments from certain Government agencies pursuant to 19 CFR 210.14(a)(2). No comments were received from the public or the parties. No Government agency objected to terminating the investigation as to Crest on the basis of the licensing agreement.

Any party wishing to petition for reconsideration of the Commission's action must do so within 14 days of service of the Commission Action and Order. Such petitions must be in accord with section 210.56 of the Commission's Rules of Practice and Procedure (19 CFR 210.56).

Copies of the Commission Action and Order in this matter and any other public documents in this investigation are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0143.

By order of the Commission.

Issued: March 20, 1981.

KENNETH R. MASON,
Secretary.

In the Matter of
CHLOROFLUOROHYDROCARBON DRY-CLEANING PROCESS MACHINES AND COMPONENTS THEREFOR

Investigation No. 337–TA–84

Order No. 27

Order Suspending Discovery and Amending Schedule

The Commission investigative attorney has moved orally on behalf of all parties to this investigation for an order staying discovery and rescheduling to a later date the final hearing. As grounds for the motion, the Commission investigative attorney has stated that all parties (1) have agreed in principle to a settlement of all outstanding issues and (2) have need of additional time, without the distraction and expense of concluding discovery and preparing for trial as currently scheduled, for execution of a written agreement.

The motion is received with favor in view of moving counsel's firm representations that requested additional time will result in an agreement to serve as the basis for a motion to terminate the investigation. However, the motion must be considered in the context of the applicable statutory time limits. This case is a more complicated case with a hearing deadline of June 11, 1981. While it may be possible to postpone the final hearing to a period immediately preceding that date, no further extensions are possible. The evidentiary record by Commission rule must be closed on that day.

Accordingly, the parties' request is granted as follows:

(1) Pursuant to 29 CFR 210.30(c) discovery is hereby suspended under the terms stated hereinafter;

(2) The parties shall have until the close of business April 24, 1981, to file with the Secretary a motion to terminate as to all parties on all outstanding issues;

(3) If the described motion to terminate is not timely filed, or the parties inform me that no such motion will be filed, the discovery period shall recommence immediately with compelled discovery to close on May 8, 1981; thereafter,

(4) Complainant's prehearing statement shall be due, with actual service on the parties, on or before May 12, 1981;

(5) Respondents' and the Commission investigative attorney's prehearing statement shall be due with actual service on the parties on or before May 15, 1981;

(6) The prehearing conference shall be held at 9:30 a.m., May 18, 1981, at suite 201, 1010 Wisconsin Avenue NW., Washington, D.C., with the final hearing to commence immediately thereafter and to be concluded by June 11, 1981.

It is further ordered that the Secretary shall serve a copy of this order on all parties and shall publish it in the Federal Register.

Issued: March 24, 1981.

DONALD K. DUVALL,
Presiding Officer.

Investigation No. 701–TA–68 (Final)

LEATHER WEARING APPAREL FROM URUGUAY

AGENCY: U.S. International Trade Commission.

ACTION: Continuation of investigation.

SUMMARY: On February 27, 1981, the U.S. Department of Commerce and the Government of Uruguay signed an agreement regarding this investigation in which the Government of Uruguay

agreed to eliminate completely the amount of the net subsidy found by Commerce to exist with respect to leather wearing apparel exported directly or indirectly to the United States. Accordingly, the countervailing duty investigation underway at Commerce was suspended, pursuant to section 704(f)(1) of the Tariff Act of 1930 (19 U.S.C. 1671c(f)(1)). On March 11, 1981, however, the Government of Uruguay requested that the investigations at Commerce and the Commission be continued pursuant to section 704(g)(1) of the act (19 U.S.C. 1671c(g)(1)). The Commission hereby gives notice that its investigation No. 701–TA–68 (final) is continued and that its final determination in the investigation will be made before the 45th day after the day on which the Department of Commerce makes its final subsidy determination.

EFFECTIVE DATE: March 24, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Magrath, Office of Investigations, U.S. International Trade Commission; telephone 202–523–0283.

By order of the Commission.

Issued: March 24, 1981.

KENNETH R. MASON,
Secretary.

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